35 U.S.C. § 102(e) Rejections: The Ensor Reference

In **paragraphs 1** and **2** of the Action, claims 1, 7-9, 14, 15, 21-23 and 28-31 were rejected as being anticipated by a patent issued to Ensor, et al. (USP 5,721,780). Applicant respectfully disagrees, and traverses the rejection of these claims.

The Ensor Reference

As introduced in prior responses, the Ensor reference is directed to a system and method for authenticating user terminal access to a network. More particularly, Ensor describes a system wherein, upon receiving a request for service from a user terminal (110) (e.g., client), a transaction manager (114) at the service bureau (108) (e.g., server) issues a request to a processor (124) of the requesting user terminal (110) to access terminal memory (126) for an encrypted password. The terminal's processor 124, upon receiving the request, accesses local memory 126. If the password is available in memory 126, processor 124 responds to the transaction manager 114 with the password. Upon receiving the response with the password, transaction manager 114 must then authenticate the password before access to the service bureau is permitted (see, e.g., col. 2, lines 15-38; col. 4, lines 40-50; col. 5, lines 8-32; col. 5, line 54, through col. 6, line 6; Figs. 1-3). In this regard, the Ensor system is illustrative of conventional prior art handshaking authentication schemes, wherein upon receiving a request for service, the server issues its own request *back to the requesting terminal* for further information, the response to which must then be authenticated before the terminal is permitted access to the server. Thus, Ensor requires a minimum of three network communications (i.e., initial request, password request, password response), followed by an authentication step before access to a requested resource

is provided. Those skilled in the art (such as Ensor) often characterize such authentication systems as an authentication handshaking access scheme (see, e.g., col. 6, line 3).

Independent Claims

The claimed invention of rejected claim 1, for example, differs from the password-based, authentication handshaking access scheme of the Ensor reference in two fundamental respects: (1) it is not password-based, i.e., there is no authentication of a password and, thus, does not require the use of a password; and (2) it is does not employ authentication handshaking between multiple network elements.

In contrast to the password-based, authentication handshaking access scheme, claim 1, for example, is directed to a medium comprising a plurality of instructions that, when executed, implement a method comprising:

> checking a first memory to determine if a user has previously accessed a resource on a computer network upon receipt of an indication from the user to access the resource; and
>
> providing the user with access to the resource if the first memory indicates that the user has previously accessed the resource (as amended)

Well-established rules of claim interpretation require that, unless denoted otherwise, the elements of a claim are interpreted as being performed by a single entity. That is, in determining the patentability of a claim, the Office cannot assert that otherwise disparate steps performed by multiple elements discloses or suggests the performance of those steps by a single element, without support for such integration in the reference. In this case, with no indication to the contrary, the computing device executing the plurality of executable instructions fulfills

each of the claimed elements, i.e., checking the memory for an indication of prior access, and providing the user access to the resource upon finding an indication of prior access in the memory.

NO, not accords to claims.

In contrast, the password-based, authentication handshake access scheme of the Ensor reference is performed by at least two network elements, i.e., the user terminal in concert with the service bureau. As introduced above, Ensor teaches that the transaction manager 114, upon receiving a request for access, instructs the requesting terminal processor 124 to access a memory 126 and, if a password is found, to provide the password to the transaction manager 114 of the service bureau. It is important to note that, by expressly teaching that the transaction manager 114 "requests the microprocessor 124 of the terminal 110" to access the memory for the password, Ensor cannot fairly be read as though the server (e.g., via the transaction manager 114) directly performs the required element of "checking a first memory". The transaction manager 114 of the service bureau does not check a first memory, but rather issues a request back to the processor 124 of the requesting terminal 110 to check the memory 126.

In addition to the foregoing distinction, the claimed invention of rejected claim 1 is not a password-based access system and, thus, there is no need for further authentication if the user has previously accessed the resource. In contrast, Ensor requires authentication of every access, **regardless** of whether the user has previously accessed the resource.

Well settled patent law requires that a single reference must teach each and every element of a rejected claim as presented within the claim to support a §102 rejection. The Ensor reference fails to meet this standard. In short, the claimed invention **eliminates** the "handshaking" convention described in the Ensor

reference altogether. In this regard, Applicant respectfully asserts that by teaching the password-based, authentication handshaking access Ensor actually **teaches away from** that which is claimed in rejected claim 1. Insofar as the Ensor reference does not anticipate or even suggest that which is claimed in rejected claim 1, Applicant respectfully requests that the §102(e) rejection of claim 1 be withdrawn.

Similarly, claims 15 and 31 include elements similar to claim 1 and are, therefore, patentable over the Ensor reference for arguments analogous to those presented above. Accordingly, Applicant requests that the §102(e) rejection of such claims be withdrawn.

Dependent Claims

Similarly, by virtue of at least their dependence upon patentable base claims 1 and 15, as amended, Applicant respectfully submits that claims 7-9, 14, 21-23 and 28-30 are likewise patentable over the Brown reference by virtue of at least this dependency. Accordingly, Applicant respectfully requests that the §102(e) rejection of such claims be withdrawn.

§103(a) Rejections: The Ensor Reference

Turning to **paragraph 3** of the Action, claims 3, 4, 10-13, 17, 18, 24-27, 32 and 33 were rejected as being obvious in light of the Ensor reference. In response, Applicant respectfully traverses the rejection of such claims.

Applicant respectfully submits that the Ensor reference fails to disclose or suggest that which is claimed in rejected claims 1, 15 and/or 31. Indeed, Applicant has shown that the password-based, authentication handshaking access scheme of the Ensor reference actually teaches away from that which is claimed in rejected claims 1, 15 and/or 31. Claims 3, 4, 10-13, 17, 18, 24-27, 32 and 33

depend from patentable base claims 1, 15 and/or 31 and are, therefore, patentable over the Ensor reference based at least on this dependency.

In addition to the foregoing basis of patentability, certain ones of the rejected claims (e.g., 3-5, 11, 17, 18 and 25) introduce the concept of a token representing user(s) in the first memory. In rejecting such claims, the Action indicates that a password may be represented as a token, a point which Applicant has conceded. It is useful to note that a token is a simplified (e.g., compressed, a subset, etc.) representation of some other information used to reduce memory and/or bandwidth required to store and/or communicate such information. According to one technical dictionary, the term token is defined by those skilled in the art as "A basic, grammatically indivisible unit of a language such as a keyword, operator or identifier" (see, e.g., Free Online Dictionary of Computing at www.foldoc.org, search of Token, copyright 2/23/99). Thus, while Applicant concedes that a token may well be represented as a token, it is done with the understanding that the token is an indivisible representation of that password.

When rejecting the claimed invention, the Action argues that Ensor discloses a password (i.e., token) representing a plurality of users. Applicant disagrees. Rather, what Ensor teaches in col. 6, lines 10-16 is that access be permitted "when passwords (tokens) are only similar or when only portions of the passwords (tokens) actually match." It is noted that in Ensor a password used by the accessing client is "unique" to the client. (see, e.g., col. 6, lines 7-25). Applicant respectfully asserts that neither of the approaches for providing group access in Ensor would work when translated to the use of tokens rather than the specifically disclosed use of passwords. The first approach still emphasizes different tokens for different parties, wherein if the different tokens are "similar

enough" then access is permitted to the network resource. The second approach, wherein a portion of a password is checked, is not translatable to the token space. That is, insofar as a token is a grammatically indivisible element of a language, it would stand that it cannot then be parsed to examine "portions of the token".

Thus, despite the characterization of the Action, Applicant respectfully submits that the Ensor reference fails to disclose or suggest the use of tokens to represent different parties.

In contradistinction, rejected claims 4, 5, 17 and 18 include the feature wherein tokens represent multiple users, and/or that a token may represent multiple anonymous users. Applicant respectfully asserts that by assigning a unique password (or, token) to each client, the Ensor reference actually teaches away from the use of a single password by a user from multiple clients. Thus, Applicant respectfully submits that the Ensor reference cannot fairly be read as suggesting the use of tokens in general, or the use of a single token by multiple users in particular, as claimed in one or more of rejected claims 3-5, 11, 17, 18 and 25. Accordingly, Applicant respectfully requests that the §103(a) rejection of such claims be withdrawn.

§103(a) Rejections: The Ensor and Teper References

Turning to **paragraph 4** of the Action, claims 5, 19 and 20 were rejected as being obvious over the Ensor reference in light of a patent issued to Teper, et al. (USP 5,815,665). In response, Applicant respectfully traverses the rejection of such claims.

Without the need to further characterize the Teper reference, Applicant respectfully asserts that the combination of the Ensor and Teper references fails to

disclose or suggest that which is claimed in rejected claims 1 and 15. Moreover, Applicant respectfully reserves the right to swear behind the Teper reference (in accordance with Rule 131), should the rejection of such claims be maintained.

Applicant respectfully asserts that claims 5, 19 and 20 are dependent on patentable claims 1 and 15, as amended. Accordingly, by virtue of at least their dependency on patentable base claims 1 and 15, as amended, Applicant respectfully requests that the §103(a) rejection of claims 5, 19 and 20 be withdrawn.

§103(a) Rejections: The Ensor and Brown References

Turning to **paragraph 5** of the Action, claims 11 and 25 were rejected as being obvious over the Ensor reference in light of a patent issued to Brown, et al. (USP 5,941,947). In response, Applicant respectfully traverses the rejection of such claims.

Without the need to further characterize the Brown reference, Applicant respectfully asserts that the combination of the Ensor and Brown references fails to disclose or suggest that which is claimed in rejected claims 1 and 15.

Applicant respectfully asserts that claims 11 and 25 are dependent on patentable claims 1 and 15, as amended. Accordingly, by virtue of at least their dependency on patentable base claims 1 and 15, as amended, Applicant respectfully requests that the §103(a) rejection of claims 11 and 25 be withdrawn.

§103(a) Rejections: The Ensor Reference in light of APA

Turning to **paragraph 6** of the Action, claims 32 and 33 were rejected as being obvious over the Ensor reference in light of a Applicant's Admitted Prior

Art (APA). In response, Applicant respectfully traverses the rejection of such claims.

Without the need to further characterize the Statement of the Problem of the Application cited as APA, Applicant respectfully asserts that the combination of the Ensor reference and the APA fail to disclose or suggest that which is claimed in rejected claims 31.

Applicant respectfully asserts that claims 32 and 33 are dependent on patentable claim 31. Accordingly, by virtue of at least their dependency on patentable base claim 31, Applicant respectfully requests that the §103(a) rejection of claims 32 and 33 be withdrawn.

Conclusion

Claims 1, 3-5, 7-15 and 17-33 are in condition for allowance. Applicant respectfully requests reconsideration and issuance of the subject application. ***Should any matter in this case remain unresolved, the undersigned attorney respectfully requests a telephone conference with the Examiner to resolve any such outstanding matter.***

Respectfully Submitted,

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